

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:
Better Life Television, Inc.
v.
Northland Cable, Inc.
Request for Carriage of KBLN(TV)
(Channel 30), Grants Pass, Oregon
CSR-6064-M

MEMORANDUM OPINION AND ORDER

Adopted: May 9, 2003

Released: May 12, 2003

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Better Life Television, Inc. ("BLT"), licensee of television broadcast station KBLN(TV), Grants Pass, Oregon ("KBLN"), filed the above-captioned must carry complaint pursuant to Sections 76.7 and 76.61 of the Commission's rules, asserting mandatory rights for KBLN on Northland Cable, Inc.'s ("Northland") cable system serving Mount Shasta, California. BLT requests that the Commission order Northland to commence carriage of KBLN on channel 30, its over-the-air broadcast channel. Northland filed an opposition to which KBLN replied.

II. BACKGROUND

2. Under Section 614 of the Communications Act of 1934, as amended ("Communications Act"), and implementing rules adopted by the Commission in Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues, ("Must Carry Order"), commercial television broadcast stations, such as KBLN, are entitled to assert mandatory carriage rights on cable systems located within the station's market. A station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research. The term DMA is a

1 Complaint at 1.

2 Id.

3 8 FCC Rcd 2965, 2976-2977 (1993).

4 Section 614(h)(1)(C) of the Communications Act, amended by the Telecommunications Act of 1996, provides that a station's market shall be determined by the Commission by regulation or order using, where available, commercial publications that delineate television markets based on viewing patterns. See 47 U.S.C. §

geographic market designation that defines each television market exclusive of others, based on measured viewing patterns.

3. Pursuant to the Commission's must carry rules, cable operators have the burden of showing that a commercial television station that is located in the same television market is not entitled to carriage.⁵ One method of doing so is for the cable operator to establish that a subject television station's signal, which would otherwise be entitled to carriage, does not provide a good quality signal to the cable system's principal headend.⁶ For UHF commercial television stations, the standard used to determine what constitutes a good quality signal at a cable system's headend is -45 dBm.⁷ Should a station fail to provide the requisite over-the-air signal quality to a cable system's principal headend, it still may obtain carriage rights. Under the Commission's rules, a television station, at its own expense, may provide a cable operator with specialized equipment to improve the station's signal to an acceptable quality at a cable system's principal headend.⁸

III. DISCUSSION

4. In support of its complaint, KBLN states that it is licensed to Grants Pass, Oregon, which is in the Medford-Klamath Falls, Oregon DMA.⁹ It states further that Northland's cable television system is also located in the Medford-Klamath Falls DMA.¹⁰ KBLN contends that because it is located within the same DMA as the Northland cable system serving Mount Shasta, California, it is entitled to must carry status on Northland's Mount Shasta cable system.¹¹ KBLN asserts that Northland did not respond in writing to its September 20, 2002 demand for mandatory carriage in Mount Shasta within 30 days of receipt of such demand as required by Section 76.61(a)(2) of the Commission's rules.¹² KBLN asserts further that Northland failed to respond to a second mandatory carriage request dated November 11, 2002.¹³ According to KBLN, it is committed to take the necessary measures to provide Northland's Mount Shasta cable system with a good quality signal.¹⁴ KBLN requests that the Commission order Northland to commence carriage of its signal on channel 30 of the Mount Shasta cable system.¹⁵

5. Northland asserts that KBLN does not qualify for mandatory carriage on its Mount Shasta, California cable system because KBLN fails to deliver a good quality signal to that headend as

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534(h)(1)(C). Section 76.55(e) of the Commission's rules requires that a commercial broadcast station's market be defined by Nielsen Media Research's DMAs. See 47 C.F.R. § 76.55(3).

⁵ See *Must Carry Order*, 8 FCC Rcd at 2991.

⁶ 47 C.F.R. § 76.55(c)(3).

⁷ 47 U.S.C. § 534(h)(1)(B)(iii); 47 C.F.R. § 76.55(c)(3).

⁸ *Must Carry Order*, 8 FCC Rcd at 2991.

⁹ Complaint at 1-2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* and Exhibit 1.

¹³ *Id.* at 2 and Exhibit 3.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 4.

required and defined by Section 76.55(c)(3) of the Commission's rules.¹⁶ Northland asserts further that on November 19, 2001 it responded in writing to KBLN's October 25, 2001 mandatory carriage election.¹⁷ Northland contends that, at that time, it informed KBLN that the Station did not provide a signal of sufficient strength to the Mount Shasta principal headend.¹⁸ Northland maintains that shortly after it received KBLN's September 20, 2002 mandatory carriage request, Northland met with KBLN's Vice-President, who confirmed KBLN's signal strength deficiency to the Mount Shasta principal headend.¹⁹ Northland also states that on December 6, 2002, it again informed KBLN of its failure to provide a good signal quality to the Mount Shasta system.²⁰ In support of these allegations, Northland maintains that two signal strength tests it conducted on January 6, 2003 showed that no signal was detected at its Mount Shasta principal headend.²¹ Northland contends that because KBLN does not provide a good signal quality to the Mount Shasta headend, it does not qualify as a local station for mandatory carriage purposes.²² Northland states that the Commission should dismiss KBLN's complaint.²³ In reply, KBLN acknowledges that it does not provide a good quality signal to Northland's Mount Shasta headend, but contends that it should not be an impediment for KBLN because Section 76.55(c)(3) of the Commission's rules permits a station to cure an inadequate signal if it, at its own expense, provides a good quality signal to the cable system.²⁴

6. We grant BLT's must carry Complaint conditioned upon KBLN delivering a good quality signal to Northland's Mount Shasta principal headend. KBLN maintains that it is committed to do whatever is necessary to improve its signal to Northland's Mount Shasta, California headend. The Commission has stated that specialized equipment may be employed to deliver a good quality signal to a cable system headend. The Commission, in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues Clarification Order* ("Must Carry Clarification Order"), after re-emphasizing that it was the television station's obligation to bear the costs associated with delivering a good quality signal to the system's principal headend, stated: "[t]his may include improved antennas, increased tower height, microwave relay equipment, amplification equipment and tests that may be needed to determine whether the station's signal complies with the signal strength requirements...".²⁵ KBLN maintains that it is committed to acquire and install all the equipment needed to deliver a good quality signal to Northland's Mount Shasta principal headend. In view of the above, we grant KBLN's complaint.

7. Concerning KBLN's channel positioning request, we find that it has properly requested carriage on channel 30 of Northland's Mount Shasta cable system, the same channel number on which KBLN is broadcast over-the-air. Pursuant to the Commission's rules, cable operators must comply with

¹⁶ Opposition at 2 and Exhibit 1.

¹⁷ *Id.* at 3 and Exhibit 1.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* and Exhibit 3.

²² *Id.* at 3-4.

²³ *Id.* at 4.

²⁴ Reply at 1.

²⁵ *Must Carry Clarification Order*, 8 FCC Rcd 4142, 4143 (1993).

channel positioning requirements absent a compelling technical reason.²⁶

IV. ORDERING CLAUSES

8. Accordingly **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended, 47 U.S.C. § 534, that the complaint filed by Better Life Television, Inc. **IS GRANTED**. Northland Cable, Inc. **IS ORDERED** to commence carriage of television station KBLN(TV) on Channel 30 of its cable system serving Mount Shasta, California, within 60 days from the date that station KBLN delivers a good quality signal to Northland's Mount Shasta, California headend.

9. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.²⁷

FEDERAL COMMUNICATIONS COMMISSION

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²⁶ 47 C.F.R. § 76.57; *see Must Carry Order*, 8 FCC Rcd at 2988.

²⁷ 47 C.F.R. § 0.283.